न्यायालयीन प्रकरणे त्वरित निकाली काढणे व
अवमान याचिकेसंदर्भात

महाराष्ट्र शासन
वित्त विभाग
शासन परिपत्रक क्रमांक न्यायप्र २०१४/प्र.क्र.८९६/प्रशा १
मंत्रालय, मुंबई ४०० ०३२.
दिनांक : २० ऑक्टोबर, २०१४

परिपत्रक

परिपत्रक :- सेवा विषयक किंवा वित्तीय लाभाबाबतच्या अनेक प्रकरणात मा. मॅट किंवा उच्च न्यायालयाकडून ठराविक कालावधीत शासनाने त्या संदर्भात निर्णय घ्यावा अशा सूचना असतात. त्या संदर्भात संबंधित विभागाकडून ज्या वेळेस वित्त विभागास संदर्भ केला जातो, त्यावेळेस वित्त विभागाकडून त्या विषयावर प्रचलित धोरणाच्या अनुषंगाने अभिप्राय देण्यात येतात. तथापि, अनेक प्रकरणात (उदा.रिट पिटीशन क्रमांक ३८९३ व इतर - प्रत सोबत जोडली आहे.) असे दिसून आले आहे की, वित्त विभागाच्या अभिप्रायानुसार विभागाकडून संबंधित याचिकाकर्त्यांना वेळेत निर्णय कळविण्यात येत नाही. त्यामुळे नंतर न्यायालयात अवमान याचिका दाखल करण्यात येते व त्यावेळेस शासनाच्या वरिष्ठ अधिकाऱ्यांना व्यक्तिश: या अवमान याचिकेच्या संदर्भात न्यायालयात आपली भूमिका स्पष्ट करणे गरजेचे ठरते.

या संदर्भात सर्व विभागांना अशा सूचना देण्यात येत आहेत की, अशा न्यायालयीन प्रकरणात वित्त विभागाने मांडलेली भूमिका/निर्णय संबंधित विभागाने तातडीने याचिकाकर्त्यांना न्यायालयाने ठरवून दिलेल्या वेळेत कळवावा. तसेच न्यायालयाने विशिष्ट मुदत घालून दिलेल्या प्रकरणांमध्ये मुदतीपूर्वीच यथोचित कार्यवाही करण्याची दक्षता घ्यावी, जेणेकरुन अकारण अवमान याचिका दाखल होणार नाहीत.

सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संकेताक २०१४१०२०१२१९४५६७०५ असा आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(स्वा.शि.क्षत्रिय)
मुख्य सचिव,महाराष्ट्र शासन

प्रति,

सर्व अपर मुख्य सचिव/प्रधान सचिव/सचिव, मंत्रालयीन विभाग
प्रत- कार्यासन प्रशा१- वित्त विभाग
अवर सचिव (विधि), वित्त विभाग

Fax Letter.

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O/o No 5698/19/2014

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5167

To be faxed
Fax No. 0240 2480814
Phone No. 0240 2486040
e-mail gpaabd@gmail.com

No. SST/W.P. /2014
Office of the Government Pleader,
High Court Bench at Aurangabad
Jalna Road, Aurangabad
Date : 23rd June, 2014

1. The Chief Secretary,
Government of Maharashtra, Mumbai.
2. The Secretary,
Social Justice and Special Assistance Deptt.
Mantralaya, Mumbai.
3. The Secretary,
General Administration Department, Mantralaya, Mumbai.
4. The Secretary,
Finance Department, Mantralaya, Mumbai.
5. The Director, Social Welfare, Maharashtra State, Pune.

अवर सचिव (वित्त)
प्र.अ. (सेवा)
उपसचिव (सा.प्र.वि.)

Subject: Writ Petition No. *3893*/2011 Dist. Nanded filed by Vyankat Mahadji More Vs. The State of Maharashtra and others

R/S.

With reference to the above noted subject I have to inform you that, the aforesaid Writ Petition is filed by the Petitioner in the matter on inaction on the part of Respondents for not making available the provisions of General Provident Fund Scheme and Maharashtra General Provident Fund Rule, 1998 to the Ashram School for Schedule Caste.

This is group of 20 matters and the Petitioners are the employees of Ashram school for Schedule caste categories. The Petitioners are seeking make available the provisions of General Provident Funds in employment and deduct from their salary as the Ashram School for Schedule Tribe and V.J.N.T..

The aforesaid Writ Petition came up before the Hon'ble High Court for hearing on 23.6.2014 and after hearing at length the Hon'ble High Court (Coram: Hon'ble Shri S.V. Gangapurwala and A.M. Badar JJ) observed that, the undersigned office has issued four letters thereby called instructions from the State authorities to file affidavit in reply but the instructions are not received. The Hon'ble High Court has passed the following order in the above mentioned Writ Petition.

"Heard. The Secretary, Finance Department to add as party Respondent. Leave to add party. A.G.P waives for added party. AGP to file reply on behalf of Secretary, Finance Department and Secretary Social Justice and Special Assistance department, Mantralaya, Mumbai. Authenticated copy permitted. S.O. two weeks."

You are therefore requested to depute responsible officer to look into this Writ Petition and submit the parawise remark, instructions and record in the matter of preparation of filing of affidavit in reply in the said Writ Petition immediately before 3.7.2014 without fail. Please treat it as most urgent and do the needful. If instructions are not received within time, the undersigned will not be responsible for the costs and consequences.

Thanking you.

Yours faithfully,
(S.S. Tope)
Addl. Government Pleader
High Court Bench at Aurangabad

Asd*

उ.स (कानि ३/१२)
Aurgabad.

Disposed 14/8/2014
with 3893 5148/11
3896
3895
dated 20/-

4|5

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 3893 OF 2011

Venkat Mahadji More ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 3894 OF 2011

Nandkishor Ganpatrao Rajemod ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 3895 OF 2011

Pratibha Govindrao Mugatkar ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 3896 OF 2011

Bhagwan Kashinath Mathpati ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 3899 OF 2011

Bhaskar Nagnath Madrewar ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 5148 OF 2011

Shivanand s/o Chillbarao Jadhav ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 5149 OF 2011

Dayanand s/o Ramrao More ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

.....

WITH

WRIT PETITION NO. 5150 OF 2011

Nagorao s/o Laxman Darshane ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

......

WITH

WRIT PETITION NO. 6320 OF 2011

Pandurang Laxman Bainwad ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

......

WITH

WRIT PETITION NO. 6321 OF 2011

Devidas Gyanbarao Pandhare ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

......

WITH

WRIT PETITION NO. 6323 OF 2011

Vishwas Parashram Pahurkar ... Petitioner

Versus

The State of Maharashtra & others ... Respondents

=-=

......

Shri S.R. Chowkidar, Advocate for petitioners.
Smt.M.A. Deshpande, AGP for respondent nos.1 to 4.
Shri K.B. Choudhary, Advocate for respondent no.5.
Shri V.S. Panpatte, Advocate for respondent no.6.
Respondent no.7 served.

......

**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATED : 14th AUGUST, 2014

PER COURT :

1] Learned counsel for the petitioners submits that in all these petitions, the petitioners are the employees of the Primary Ashram Schools meant for scheduled caste. According to the learned counsel, these Ashram schools are run by private managements, however, are completely aided by the State. The learned counsel

submits that in respect of the Primary Ashram Schools established for VJNT, the State vide Government resolution dated 4.12.1995 has made provident fund applicable to its employees. According to the learned counsel, vide Government resolution dated 28.2.2008, all Rules applicable to Ashram schools of VJNT are made applicable to Ashram schools for scheduled caste. Even the authorities have recommended to their superiors to look into the problem. The learned counsel submits that the employees of the Ashram schools for scheduled caste are being discriminated. They stand on the same footing as that of the employees of the Ashram schools for VJNT. The respondents be directed to implement the scheme for provident fund applicable.

2] Learned AGP submits that the Primary Ashram Schools for scheduled caste are established under a planned scheme. There is no provision made for the said purpose. According to the learned AGP, the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Act and Rules are not applicable. The matter is pending with the Hon'ble Minister to take decision as to whether it can be converted into non-planned scheme. If it is converted into non-planned scheme, then the provisions of applicability of provident fund would be considered and decision taken.

3] The learned counsel for respective parties are at ad-idem that the provisions of the MEPS Act and Rules would not apply to the Primary Ashram Schools and more particularly Rule 20 thereof.

4] It is also not disputed by the respondents that the scheme for provident fund is made applicable to the Primary Ashram Schools established for VJNT. The petitioners are the employees of the Primary Ashram Schools established for scheduled caste. Since 1995, the scheme for provident fund is made applicable for Ashram schools for VJNT category. The Primary Ashram Schools for VJNT are also established in a planned scheme. They are also run by private managements and aided by the Government. However, as per the learned AGP, they have been brought on non-planned scheme subsequently.

5] It is submitted that the discussion is in process for bringing the Primary Ashram Schools for scheduled caste also on non-planned scheme and the matter is pending with the Hon'ble Minister.

6] The matter would be concerned with the large number of employees of the Primary Ashram Schools for scheduled caste. It is but natural that they would also like to have the same treatment as being given to the employees of Primary Ashram Schools for VJNT. It is submitted that the matter is in process to bring the

Primary Ashram Schools for scheduled caste also on non-planned scheme and thereafter the provisions for applicability of the provident fund scheme under the Maharashtra Provident Fund Rules, 1977 can be considered.

7] It is for the State to take decision expeditiously on the same. When the process has been almost completed and the matter is now with the Hon'ble Minister, there should be no impediment for the respondent – State to take decision on the same considering the fact that it concerns all the employees of the Primary Ashram schools for scheduled caste.

8] In the light of above, we hope and trust that the respondents shall take decision on the aspect about applicability or otherwise of the provident fund scheme under the Maharashtra Provident Fund Rules, 1977, to the employees of the Primary Ashram Schools for scheduled caste expeditiously and preferably within a period of six months from today. The writ petitions are accordingly disposed of. No order as to costs.

(A.M. BADAR, J.) (S.V. GANGAPURWALA, J.)

ndk/c1481438